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OFFICE OF PETITIONS

In re Application of :
Kent E. Peterson :
Application No. 10/662,779 : **ON PETITION**
Filed: September 15, 2003 :
Attorney Docket No. NORTE-500A :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 24, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 22, 2005, which set a shortened statutory period for reply of three (3) months. The application was held abandoned on December 23, 2005. A Notice of Abandonment was mailed on April 3, 2006.

Applicant has filed the instant petition, arguing that he timely filed a response. In support thereof, petitioner has submitted *prima facie* evidence in the form of a USPTO date stamped postcard receipt, itemizing an Amendment. See MPEP 503.

However, the Examiner has determined that the Amendment fails to place the application in condition for allowance. A proper reply to a final Office action consists of either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

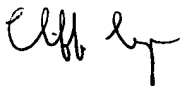
While the showing of record is not sufficient to establish to warrant withdrawing the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions